

UKRAINE CIVIL SOCIETY ENABLING ENVIRONMENT ACTIVITY

Annual Report
July 11, 2014– September 30, 2014

Implemented by Ukrainian Center for Independent Political Research (UCIPR)

Funded by the United States Agency for International Development
Regional Mission for Ukraine, Belarus, Moldova and Cyprus
Cooperative Agreement AID-121-A-14-00002

September 30, 2014

I. Summary

Overall purpose of the program is to improve the legislative and policy environment to make it more conducive to civil society needs and to reflect European standards. It envisaged strengthening of public oversight and engagement in governance, which is only possible through improvement of legislative/policy environment for media, civil society and CSO ability to engage citizens and represent their interests.

UCIPR's unique approach covers the full cycle of improvement of legislative and administrative environment for civil society development in its key areas. Namely, UCIPR combines analysis of shortcomings and opportunities, monitoring of emerging challenges, development of proposals for improvement of legal acts and administrative practices, initiating and leading advocacy campaigns as well as offering awareness campaigns, methodological support and monitoring of adopted legislation for civil society development.

In addition, the program covers organizational development of UCIPR in order for the Center to be able sustain its activities and to serve as a leader and driver of civil society legislative efforts.

II. Current Context and Problems

Although the current political climate is in flux, Ukraine has made some advances toward democratic reform in its recent history. The progressive legislation that was passed between 2010 and 2013, along with mechanisms for civil society engagement in governance that were developed, helped Ukraine move closer to an Association Agreement (AA) with the European Union (EU). The Law on Public Associations provides an overarching framework for all non-governmental organizations in Ukraine. The Law on Charity and Charitable Associations, the Law on Access to Public Information, and the GOU Strategy of Government Policy on Civil Society Development and Priority Action Plan are supporting legislation and policy that have helped to establish a positive framework for Ukrainian civil society, which remains committed to supporting and furthering these gains.

Nevertheless, even with these significant and progressive legislative reforms, much more is needed to ensure a regulatory framework that is conducive to civil society and protects political and civil rights in Ukraine, and to prevent possible rollbacks. Remarkably, civil society and government have been unable to agree upon a legislative approach to governing assemblies, which has enabled law enforcement agencies to apply administrative charges against civic activists engaging in peaceful protests. The legal status of peaceful assembly has become more important and convoluted as citizens, opposition and the government struggle over prosecution versus amnesty for those engaged in the nation-wide EuroMaidan protests.

Politicians commonly toy with the idea to control international funding to NGOs. Legislation labeling civil society organizations that receive funds from international donors as "foreign agents" attempt to restrict operations through high taxation, negative public image and stringent governmental control, essentially leaving NGOs unable to function.

Homophobia is commonplace in Ukraine and violence and discrimination against LGBT activists routinely goes unpunished. Discrimination based on ethnicity, sexual orientation and gender identity is broadly accepted by society and further legislative and policy protection of victims of discrimination is of paramount importance.

As the civic pressure following EuroMaidan protests continues, and elections near, initiatives and groups that are perceived to pose a threat to the political status may experience intensified scrutiny and intimidation. Therefore, in addition to supporting the implementation of progressive democratic reforms and mobilizing around attempts to roll-back those same reforms, the activity may also provide tools and methods to prevent harassment and intimidation of civic activists and actions. Heightened attention to and novel modes of advocacy and monitoring will likely be needed to protect the freedom of speech, assembly and association.

In order for participatory and accountable governance to flourish, citizens must have the means to influence the development and monitoring of government policies at all levels. To do so,

- Space for quality citizen and civil society participation in the development and monitoring of legislative policy must be expanded;
- Citizens and civil society must have access to quality information and have the capacity to function effectively as a part of the Ukrainian political system;
- Civil society organizations (CSOs) engaged in protecting freedoms and ensuring government transparency must receive support to strengthen their technical and organizational capacity; and
- CSOs and citizens must become better connected (and in some cases better informed) in order to amplify their demands for change at both the national and sub-national levels.

During July 2014 – September 2014, the activity was focused primarily on launching of the project activities and on startup activities.

III. Objectives and Project Activities

All of the proposed activities fall under the following three objectives identified in the Cooperative Agreement:

The purpose of the activity is to improve the legislative and policy environment to be more conducive to civil society and reflect European standards. To achieve this, UCIPR will focus on three objectives:

Objective 1: (*notional 40%*) Quality of relevant civil society enabling legislation and policy improved

Objective 2: (*notional 40%*) Capacity of public officials and CSOs to ensure effective implementation of legislation and policy increased

Objective 3: (*notional 20%*) Technical and organizational capacity of UCIPR as a leader and driver of civil society legislative efforts increased

A. Startup Activities:

After signing the cooperative agreement with USAID, the UCIPR focused on the startup activities, such as:

1. **Project registration:** During August-September 2014 UCIPR worked on preparation of documents for project registration within the Ministry of Economic Development and Trade of Ukraine. It defined the project beneficiary, recipients and coordinated with them memorandums signing. It is planned to submit the documents for registration at the beginning of October.

2. ***Initial Implementation Plan and Monitoring and Evaluation Plan.*** During July-September 2014, the UCIPR team held planning sessions for the development of the 14 month activities, results and indicators for measuring these activities. As the outcomes of such brainstorming, drafts of the 14 months Initial Implementation Plan for and the five-year Monitoring and Evaluation Plan have been developed.
3. ***Marking Plan and Branding Strategy.*** During July-September 2014, UCIPR team also was drafting Marking Plan and Branding Strategy for the Ukrainian Civil Society Enabling Environment Activity. The draft of the document has been submitted to USAID at the end of September.

B. Objective 1: Quality of relevant civil society enabling legislation and policy improved

During July – September 2014, UCIPR continued to drive the Ukrainian civil society agenda as the lead CSO advocacy group on civil society legal improvements as part of the *New Citizen* platform or other similar civic platforms, such as the newly emerged civil society Reform Platform known as *Reanimation Reforms Package*. UCIPR analyzed, developed and advocated for new legislation and policy in order to improve the civil society-enabling environment. UCIPR monitored key changes in the legislative environment for civil society and responded to attempts to restrict civil society's ability to operate. UCIPR assisted in amending current legislation and policy to improve the quality, as well as monitored implementation to ensure effective application.

UCIPR started all activities, envisaged by objective 1 and it will continue them for the five years. It also monitored, analyzed, and advocated against the passage and implementation of new laws that could restrict the operating environment for civil society (such as the “foreign agents” law).

Within this objective five-year project of the UCIPR focuses on legislation on registration and status of NGOs, public participation in decision-making and policy monitoring, financial sustainability of NGOs, peaceful assemblies, state policy for civil development and access to public information. These issues are crucial for development of civil society as leading to formation of participatory and accountable government. Therefore, to reach goal of the objective 1, UCIPR plans the following activities in the first year:

Expected result 1.1: Broad and effective civic networks formed that advance civil society legislative reforms

Forming of networks to advance civil society legislative reforms

Starting from the beginning of the project, UCIPR team together with partner-CSOs started to form CSO networks to advance civil society legislation reforms. Mr. Ivan Lukerya, UCIPR Expert took part in conference on mechanisms of local democracy implementation in Chernihiv. He presented his opinion and held consultations regarding creation of the civic associations' network for advocating of the implementation of mechanisms of local democracy in Ukrainian cities.

UCIPR experts provided recommendations to the CSOs and representatives of local self-governance in Chernihiv City regarding emending of community Charter and implementation of the mechanisms of local democracies. It is planned to emend regulation on local initiatives in Chernihiv City and its discussion in Chernihiv City Council.

Expected result 1.2: Advocacy efforts at national and local levels lead to positive changes in civil society legislation

Participation in ministerial working group on public participation in decision-making

During the reporting period, UCIPR team joined working group of the Ministry of Justice on improvement of legal framework for public participation in decision-making within executive branch of power. Project team members provided consultations for the Ministry (Department of Administrative and Constitutional Legislation) regarding potential members for working group from the Ukrainian civil society.

Project experts also held preliminary consultations with the MoJ on necessary amendments to the Cabinet's Decrees # 996 (on public councils under executive bodies) and # 976 (on public expertise of executive bodies' activities). Within next period of the project, the experts will work on amendments for the abovementioned Decrees. It is expected that the working group will develop necessary amendments by the end of November 2014. The letter is added as attachment.

Launching of hot line to provide consultations regarding peaceful assemblies

Starting from September 2014, UCIPR launched hotline to provide consultations regarding legislation, which regulates peaceful assemblies. For this purpose, separate landline was launched and in addition, on the UCIPR website posted special form through which any person can send a question by email. In addition, a special e-journal to records of accomplishment https://docs.google.com/forms/d/1vN8uxxUfEAVkD1Zucy2QcMnXBrQGsdYzOnhyw7i6SIg/view_form was created. Through the hot line, CSOs can receive information about peaceful assemblies' regulations.

Expected result 1.3: Appropriate bi-laws adopted to ensure implementation of progressive legislation (e.g., the Laws on Access to Public Information and on Public Associations)

Development and advocating of amendments to Cabinet's Decree # 1049

In August-September 2014 project experts held two sets of consultations with representatives of the Ministry of Youth and Sports on development of amendments for the Cabinet's Decree # 1049 (on contest-based procedures for public financial support of NGOs). Respective meetings took place on September 8th and September 18th. As a result of consultations, progressive amendments to the Decree, developed by project experts, received support from the Ministry. In late September, the Ministry submitted draft amendments for consideration of other Ministries in the edition, offered by project experts.

Amendments include provisions on access of charitable organizations to contest-based public financial support, repeal limitations on access of local organizations to financial support from central budget and introduce a distribution procedure according to which NGOs will receive an opportunity to implement project all year long (instead of several months which is the case as of now). Draft amendments were developed by project experts.

In addition, project experts opened consultations with the Ministry of Finance to facilitate its support for provisions on access of charities to public financial support. Project experts developed a set of arguments in support of the right of charities for public financial support and forwarded it for consideration of the Ministry. Further consultations will be held in October 2014.

It is expected that the Ministry of Youth and Sports will submit final draft of amendments for the Decree # 1049 for consideration of the Cabinet (with proposals from project experts considered in the amendments) by the end of October 2014.

Development of proposals to Policy and Procedure for official use only information

Mr. Lukerya, UCIPR expert holds consultations with the State Archive Service of Ukraine and the Ministry of Justice of Ukraine on introduction of proposals to Policy and Procedure for official use only information.

It is planned to develop public proposals to Policy and Procedure for official use only information and to submit them to the State Archive Service of Ukraine and the Ministry of Justice for their consideration.

Expected result 1.4: CSO enabling legislation developed with significant input from CSOs (e.g., draft Law on Peaceful Assembly, Tax Laws, policy initiatives outlined in the Civil Society Strategy)

Analysis of legislation on non-profit status of NGOs

As envisaged by the Initial Implementation Plan, the project team developed terms of reference for legislation analysis and administrative practices of granting non-profit status to public associations and charitable organizations.

Project experts started analysis of legal framework of non-profit status of NGOs, namely they conducted analysis of respective provisions of the Tax Code, Decree of the Ministry of Finance on registry of non-profits and explanatory letters of State Tax Administration regarding non-profit status. Draft report on legal framework on non-profit status of NGOs is being developed and will be finalized in early October, 2014.

C. Objective 2: Capacity of public officials and CSOs to ensure effective implementation of legislation and policy increased

The earlier adoption of progressive civil society legislation was a significant step forward, but it will not improve the regulatory environment, unless legislation is properly implemented. Organizations and public officials at the local level are often uneducated about new legislation and are left without the skills, capacity and support to effectively implement or use it at the working level. Further, civic and governmental stakeholders do not often monitor outcomes of implemented regulations in order to make adjustments and improvements.

Expected result 2.1: Newly adopted progressive legislation and policies related to civil society properly implemented (i.e., Laws on Public Associations, on Charitable Foundations and on Access to Public Information, and the Strategy on State Policy for Support of Civil Society Development)

Meeting with representative of Ministry of Justice

On September 24, 2014 UCIPR team met representative of Ministry of Justice of Ukraine, Ms. Yaroslava Kahlyak. During this meeting, it was discussed the issues of implementation of transitional and final provisions of the Law on Civic Associations, in particular those related the

transfer of the registration cases of individual NGOs to responsible institution. Mr. Maksym Latsyba and Ms. Anastasiya Shymchuk participated in the meeting with the MoJ representative.

Correspondence with public institutions

During the reporting period, the UCIPR team sent the following letters and filed complains to public institutions regarding improving of the work of state registry of CSOs:

- Letter to Ms. Yulia Nechyporenko, Head of Department of Legalization of CSOs of State Registration Service of Ukraine regarding introduction changes into CSOs registry work and introduction of additional parameters of information search;
- Letter to First Deputy Minister of Economic Development and Trade of Ukraine regarding emending “State Class Index System” with the organization and legal form “civic organization”;
- Letter to Acting Head of State Statistical Services of Ukraine regarding amendments to “State Class Index System” with the organization and legal form “civic organization”;
- Complain to Office of Prosecutor General of Ukraine regarding failure to perform Final and Transitional Provisions to the Law of Ukraine on Civic Associations by the State Statistical Service of Ukraine.

Meeting with leadership of Department of Citizens Associations Legalization of State Registration Service of Ukraine

On September 18, 2014, the UCIPR team held a meeting with Ms. Yulia Nechyporenko, a newly appointed Head of Department of Citizens Associations Legalization of State Registration Service of Ukraine, where key issues in the field of implantation of the Law of Ukraine on Civic Associations were discussed. They identified common goals for improving legal environment. The following most burning issues were identified: transferring of NGO registration services to Administrative Services Centers; improving the technical aspect of the CSOs Registry and increasing the parameters of search of information; defining the regulation to be introduced to the Law of Ukraine On Public Associations and emending the Classification system of legal forms with “social union” form. Participants of the meeting: Ms. Yulia Nechyporenko, Head of Department of Citizens Associations Legalization of State Registration Service of Ukraine, Mr. Pavlo Matyash and Ms. Lesya Muzychuk, employees of the Department, Maksym Latsyba and Anastasiya Shymchuk, UCIPR.

After the meeting, recommendations and plan of future activities were sent to the officials of the State Registration Service of Ukraine.

Launching of hot lines for CSOs and charitable organizations

Starting from September 2014, UCIPR launched hotlines for CSOs and Charitable Foundations for consultations regarding legislation, which regulates their activity. For this purpose, the separate line was launched and in addition, on the UCIPR website posted special form through which any person can send question by email. It is also created special e-journal for track records https://docs.google.com/forms/d/1T7pVUtrnsMDtSyHhCkqU0Hal9tPSaajAh1lvM3R_Pi/viewform

Through hot line, UCIPR is monitoring whether Laws on Public Associations, on Charitable Foundations and on Access to Public Information, and the Strategy on State Policy for Support of Civil Society Development are properly implemented. It also teaches CSOs to use instruments provided by CSOs enabling environment legislation (i.e., Laws on Public Associations, on Charitable Foundations and on Access to Public Information, and the Strategy on State Policy for Support of Civil Society Development).

2.4. Implementation capacity of public officials improved.

Recommendations for improving the CSOs legal environment provided

On August 12, 2014 in response to recommendations provided by UCIPR, the Ministry of Justice has sent the following letter to the relevant state instructions:

- To Heads of Divisions of the Ministry of Justice of Ukraine in oblasts and in Kyiv on the necessity of placing the information on administrative services provision, documents samples, and explanations for the registration of public associations on the boards and on the official websites;
- To President of the Supreme Administrative Court on the need to summarize the court practice on the application of the Law of Ukraine On Public Associations;
- To Head of the State Registration Service of Ukraine regarding the need to update the registries contact information on the official website of the State Registration Service of Ukraine;
- To State Registration Service of Ukraine concerning improvement of the Register of Civic Associations.

These letters are the result of UCIPR proactive work. In the future, UCIPR plans to monitor the fulfillment of the Ministry of Justice instructions and to hold a series of individual meetings with responsible public officials of these state bodies. Copies of letters are attached (Annex 1).

Expected result 2.6: Citizens better informed about opportunities to participate in local decision-making.

Mr. Ivan Lukerya, UCIPR Expert took part in conference on mechanisms of local democracy implementation in Chernihiv. He presented his opinion and held consultations regarding creation of the civic associations' network for advocating of the implementation of mechanisms of local democracy in Ukrainian cities.

UCIPR expert took part in Forum "OZON is an oxygen of democracy" and presented his presentation on instruments of local democracy and UCIPR's achievements in this field. It is planned to continue cooperation with OZON network in implementation of mechanism of local democracy in Ukrainian cities.

D. Objective 3: UCIPR's technical and organizational capacity increased to serve as a leader and driver of civil society legislative efforts

During the reporting period, UCIPR started to strengthen its own technical and organizational capacity by implementing recommendations from recent surveys, assessments and audits. Recommendations from USAID's pre-award assessment (Non-U.S. Organization Pre-Award Survey - NUPAS), a recipient contracted audit (RCA) and UNITER/Pact's holistic capacity development assessment will form the basis of UCIPR's advanced capacity development roadmap. UCIPR worked on implementing NUPAS and audit recommendations focused primarily on organizational capacities.

Expected result 3.1: UCIPR's organizational capacity strengthened – governance structure,

procurement processes, financial and human resources systems, monitoring and evaluation, communication and outreach.

Implementation of NUPAS audit recommendations

In the framework of implementation of NUPAS recommendations, UCIPR team developed draft of new UCIPR Statute. New governing structure of organization is reflected in this draft. The draft of the new UCIPR Statute is under discussion. After it is discussed and approved by the general council of organization, the Statute will be submitted for its registration. In October 2014, it is planned to form new Board and the Directorate (with clear description of its responsibilities and control functions).

Besides that, UCIPR developed the pay scale for both permanent and temporary employees and introduced the user profile with “read only” access to the accounting system. Accounting system contains passwords for creation and changes or amendments. Only chief accountant has the password to the accounting system.

During the next reporting period, UCIPR will continue to work on implementation of other recommendations.

Strengthening of UCIPR’s organizational capacity

During reporting period, UCIPR experts participated in gender training course to improve gender awareness among UCIPR staff and to understand how to incorporate gender component into the UCIPR work. In particular, UCIPR staff took part in the following trainings:

- On September 23, 2014 UCIPR staff participated in training Introduction to Gender Mainstreaming in organizational activities (Lauren Serpe, Results and Measurement Advisor, Pact Inc, DC).
- On September 25, 2014, UCIPR staff participated in individual training gender session (trainer Lauren Serpe, Results and Measurement Advisor, Pact Inc, DC).
- On September 29, 2014 UCIPR advocacy experts took part in the Gender Impact Assessment workshop (trainer Lauren Serpe, Results and Measurement Advisor, Pact Inc, DC). Training was designed for advocacy organizations that promote legislation in various fields.

In the course of training program, the UCIPR team learnt existing practices for assessment of legislation effect on gender during design, implementation, monitoring and evaluating of policy, reviewed Key Gender Terms, learnt purpose and how to conduct Gender Legislative Impact Assessment with Checklist Tool, conducted Checklist Exercise and finalized checklist tool.

Expected result 3.2: UCIPR’s technical capacity improved – legal analysis and expertise

Use of English language resources in UCIPR expertise

Since the beginning of the project, the UCIPR team analyzed the resources which its staff use in their expertise, identified gaps and set the targets which it plans to reach in five years.

Expected result 3.3: UCIPR's capacity to influence a broad community of stakeholders increased – government, NGOs, citizens and the international organizations

On September 23, the UCIPR team took part in the USAID quarterly implementing partners meeting, where it presented the project to other USAID implementing partners and exchanged with the contact details. In the course of the next weeks, it plans to meet with other USAID projects dealing with similar issues and to discuss how to cooperate and avoid overlapping.

V. Mandatory Factors

A. Gender

During reporting period, UCIPR tried to attract equal number of women and men to its activities and it identified the women organizations which can help with understanding of women's issues. It is planned to engage them to development of agenda for trainings and legislation drafting. Additionally, UCIPR plan to support Ukrainian coalitions or networks dealing with gender inequality in the application of government policies and practices. It will incorporate gender in all trainings to increase awareness of gender gaps what will help to facilitate inclusion of women in formal decision-making processes in civil society work. Moreover, conducting legislative and policy analysis, drafting and monitoring, UCIPR will perform with a gender lens. All advocacy initiatives will consider gender differences and perspectives from the outset in order to effectively represent all Ukrainians and their interests.

UCIPR will also work closely with other activities implemented under the Civic Oversight Project that focus specifically on the advocacy and monitoring initiatives and CSO organizational capacity building in order to strengthen women's participation in civil society activism and engagement.

B. People with Disabilities

During reporting period, UCIPR did not work specifically with DPOs and CSOs engaged in disability issues but it provided its consultations to all organizations regarding legislative and policy changes. During the next reporting period, it plans to identify DPOs and CSOs engaged in disability issues and it will include them in UCIPR networks and partnerships at the national and local levels. UCIPR will try to help these organizations to improve their capacities in analysis and will encourage them to provide recommendations on legislation. UCIPR will continue to work closely with other Civic Oversight Project activities that assist in advocacy and monitoring initiatives as well as provide institutional and management capacity-building support to DPOs and CSOs engaged in disability programming. UCIPR will look for synergies between this project and other USG-supported initiatives, and present additional areas for support to the issue of disability in civil society strengthening.

C. Lesbian, Gay, Bisexual and Transgender Community

This project assists organizations focused on LGBT issues, along with other organizations, to support a legislative framework that protects and supports civil society. UCIPR engages a breadth of civil society organizations working to improve the legislative environment, including those that engage on LGBT issues.

D. Sustainability

The project team prepared Initial implementation Plan, Monitoring and Evaluation Plan, built relationship with the Ministry of Justice as Beneficiary and recipients of the project. It also started activities, which will be continued in the next five years.

VI. Coordination

All activities of the project are implemented in close collaboration with other Mission activities and projects, as appropriate, including those outside the democracy and governance sector portfolio. The project team is identifying complementarities and areas for collaboration.

The Project team started to build relationship with other USAID projects, such as:

- The USAID/Strengthening Civil Society in Ukraine (also known as Ukraine National Initiative to Enhance Reform – UNITER);
- The USAID/Ukraine local governance programs, including efforts to increase levels of citizen participation and engagement with local officials;
- The USAID/Ukraine rule of law program dealing with administrative law reform, especially given the role of administrative courts as the nexus for resolving disputes between citizens and government;
- The USAID/Ukraine Responsible Accountable Democratic Assembly (RADA) program to spur civil society participation in legislative drafting and to monitor legislation implementation
- ISAR/Iednannia.

V. Success story

Mr. Maxim Latsyba and Ms. Anastasiya Krasnosilka were acknowledged by the Chairman of the Coordination Council for Development of Civil Society in Ukraine for significant contribution for the development of civil society in Ukraine.

VI. Plans

In the next six months period the UCIPR plans to continue implement the activities envisaged in the Initial Implementation Plan for October 2014 – March 2015 (according to the schedule).